

§ 641.730 How will the Department set and adjust performance levels?

(a) Before the beginning of each Program Year, the Department will negotiate and set baseline levels of negotiated performance for each measure with each grantee, taking into consideration the need to promote continuous improvement in the program overall, past performance, and, when applicable, the performance of similar programs.

(b) The baseline level of negotiated performance for “placement into public or private unsubsidized employment” is set at 20 percent. (OAA sec. 513(a)(2)(C)).

(c) Grantees may request adjustments from these baseline levels before or during the Program Year. Grantees may base such requests only on the factors in paragraph (d) of this section. The Department will issue guidance for negotiating adjustment requests.

(d) Adjustments to performance levels may be made based on the following conditions only:

(1) High rates of unemployment, poverty, or welfare reciprocity in the areas served by a grantee relative to other areas of the State or Nation;

(2) Significant economic downturns in the areas served by the grantee or in the national economy; or

(3) Significantly higher numbers or proportions of participants with one or more barriers to employment served by a grantee relative to grantees serving other areas of the State or Nation. (OAA sec. 513(a)(2)(B)).

(e) Grantees may seek an adjustment to their performance levels, based on the factors listed in paragraph (d) of this section, during the negotiation process or during the grant period.

§ 641.740 How will the Department determine whether a grantee fails, meets, or exceeds negotiated levels of performance?

(a) The Department will evaluate each performance indicator to determine the level of success that a grantee has achieved and take the aggregate to determine if, on the whole, the grantee met its performance objectives. The aggregate is calculated by combining the percentage results achieved on

each of the individual measures to obtain an average score.

(b) Once the aggregate is determined, if a grantee is unable to meet 80 percent of the negotiated levels of performance for the aggregate of all of the performance measures, that grantee has failed to meet its performance measures. Performance in the range of 80 to 100 percent constitutes meeting the levels for the performance measures. Performance in excess of 100 percent constitutes exceeding the levels for the performance measures.

(c) A national grantee in a State must meet 80 percent of the negotiated level of performance for its national measures, and it must meet the measures negotiated for the State in which the national grantee serves.

(d) The Department will impose the sanctions outlined in section 514 of the OAA and in §§ 541.750, 541.760, 541.770 and 541.790 when a grantee fails to meet overall negotiated levels of performance.

(e) When a grantee fails one or more measures, but does not fail to meet its performance measures in the aggregate, the Department will provide technical assistance on the particular measures that a grantee failed.

(f) The Department will provide further guidance through administrative issuances.

§ 641.750 What sanctions will the Department impose if a grantee fails to meet negotiated levels of performance?

(a) Grantees that fail to meet negotiated levels of performance will be subject to the sanctions established in section 514 of the OAA. The sanctions that apply are grantee specific (*i.e.*, national grantee, national grantee in a State, or State grantee). These sanctions range from requiring grantees to submit a corrective action plan and receive technical assistance, to competition of part of the grant funds, to a competition of all of the grant funds.

(b) Until the Department establishes baseline levels for customer satisfaction measures, grantees that only fail the customer satisfaction performance measure, but meet or exceed all other performance measures, will not be subject to sanctions. The Department will